

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts
Negotiated Service Agreement

Docket No. MC2013-64

Competitive Product Prices
Global Reseller Expedited Package Contracts 3
(MC2013-64)
Negotiated Service Agreement

Docket No. CP2013-84

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE CONCERNING FILING OF
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACTS 3
NEGOTIATED SERVICE AGREEMENT

(October 25, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1850.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Request to add Global Reseller Expedited Package (GREP) Contracts 3 to the competitive product list, and to include a GREP Contracts 3 contract within the product.²

Prices and classifications not of general applicability for GREP contracts were previously established by Governors' Decision No. 10-1, issued March 24, 2010.³ In Order No. 445, Commission approved the addition of the Global Reseller Expedited Package Contracts 1 product (MC2010-21) to the competitive products list, and

¹ PRC Order No. 1850, Notice and Order Concerning Filing of Global Reseller Expedited Package Contract 3, Negotiated Service Agreement, October 18, 2013.

² Request of United States Postal Service to Add Global Reseller Expedited Package Contracts 3 to the Competitive Products List and Notice of Filing a Global Reseller Expedited Package 3 Negotiated Service Agreement, October 25, 2013 (Request).

³ See Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010 (Request).

included a GREP Contracts 1 contract (CP2010-36) within the product.⁴ The Commission subsequently included a number of GREP Contracts 1 contracts within the product.⁵ In Order No. 1746, Commission approved the addition of the Global Reseller Expedited Package Contracts 2 product (MC2013-51) to the competitive products list, and included a GREP Contracts 2 contract (CP2013-64) within the product.⁶

As approved in Order Nos. 445 and 1746, GREP contracts in the GREP Contracts 1 and GREP Contracts 2 products offer discounted prices for 1) Priority Mail Express International (PMEI) and Priority Mail International (PMI), and 2) PMEI, PMI and Outbound Single-Piece First-Class Package International Service (FCPIS), respectively, to U.S.-based consolidators, freight forwarders and large shipping companies. Such firms serve as resellers that market these shipping services at discounted prices to their customers, especially small and medium-sized businesses. Under the proposed GREP Contracts 3 product, GREP contracts will offer resellers discounted prices for Global Express Guaranteed (GXG), as well as PMI, PMEI and FCPIS. To qualify for a GREP contract, a reseller must be capable of tendering at least 5,000 pieces of international mail, or paying at least \$100,000 in international postage, to the Postal Service.

The Effective Date of the GREP Contracts 3 contract will be established by Postal Service notice to the reseller within 90 days following all necessary approvals. *Id.*, Attachment 4 at 5. The contract will remain in effect for one year after the Effective Date, unless termination of the contract occurs sooner. *Id.* at 5.

⁴ PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.

⁵ PRC Order No. 755, Order Approving Global Reseller Expedited Package Contract Negotiated Service Agreement, PRC Docket No. CP2011-65, June 30, 2011; PRC Order No. 811; PRC Order No. 1177, Order Approving Additional Global Reseller Expedited Package Contract 1 Negotiated Service Agreement, Docket No. CP2012-14, January 27, 2012; PRC Order No. 1337, Order Approving an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, Docket No. CP2012-21, May 9, 2012; and, PRC Order No. 1571, Order Approving an Additional Global Reseller Expedited Package Contracts 1 Negotiated Service Agreement, Docket No. CP2013-20, December 10, 2012.

⁶ PRC Order No. 1746, Order Adding Global Reseller Expedited Package Contracts 2 to the Competitive Product List Negotiated Service Agreement, Docket Nos. MC2013-51 and CP2013-64, June 13, 2013.

The Postal Service asserts that the GREP Contracts 3 product is competitive in conformance with the classification criteria of 39 U.S.C. § 3642, and the “financial data filed under seal . . . establishe[s] that this GREP 3 agreement is in compliance with the requirements of 39 U.S.C. § 3633.” *Id.* at 7 and 9. The Postal Service therefore requests that the GREP Contracts 3 product be added to the competitive product list, and that the instant GREP Contracts 3 contract be included within the GREP Contracts 3 product. *Id.* at 8. The Postal Service also requests that the instant GREP 3 Contracts contract be considered the “baseline” agreement for future functional equivalency analysis with respect to subsequent GREP contracts proposed to be included within the GREP Contracts 3 product. *Id.*

COMMENTS

The Public Representative has reviewed the Postal Service’s Request, the instant GREP Contracts 3 contract, revisions to the text of section 2510.7 of the draft Mail Classification Schedule (MCS), and the supporting financial model filed under seal that accompanied the Request. Based upon that review, the Public Representative concludes that the GREP Contracts 3 product is appropriately classified as competitive and should be added to the competitive product list. In addition, it appears the negotiated prices in the GREP Contracts 3 contract should generate sufficient revenues to cover costs. However, several revisions to the text of the MCS should be edited or otherwise clarified.

Product List Assignment. Pursuant to 39 U.S.C. § 3642(b), the Commission must determine whether the GREP Contracts 3 product qualifies as market dominant, or is otherwise excluded from the postal monopoly, when assigning the product to either the market dominant or competitive product list. The Commission must also consider the availability and nature of private sector enterprises engaged in delivering the product, the views of those who use the product, and the likely impact on small business concerns. U.S.C. § 3642(b)(3).

The Postal Service maintains that the criteria of section 3642(b) have been previously addressed in docket proceedings concerning the addition of prior Global

Reseller Expedited Package Contracts products to the competitive product list. *Id.* at 6. The Public Representative agrees, and notes that the Commission has found such previous discussions to be sufficient. The Public Representative also agrees that the addition of GXG to the GREP Contracts 3 product does not alter the conclusion that the product is competitive.

Requirements of 39 U.S.C. § 3633. 39 U.S.C. § 3633 requires that prices for competitive products must cover each product's attributable costs, not result in the subsidization of competitive products by market dominant products, and enable competitive products as a whole to contribute an appropriate share to the institutional costs of the Postal Service. In addition, the Commission requires that each contract included within a GREP product must cover its attributable costs.⁷

In this proceeding, the Postal Service's financial model indicates that the negotiated prices in the instant GREP Contracts 3 contract should generate sufficient revenues to cover costs. Consequently, the Public Representative concludes that, as the only GREP Contracts 3 contract included in the product, the GREP Contracts 3 product should also satisfy 39 U.S.C. § 3633.

Text of the MCS. The Postal Service presents proposed revisions to section 2510.7 of the draft MCS, which is filed as Attachment 2B to the Request. Section 2510.7.2 consists of tables showing the minimum and maximum size and weight limitations for GXG, PMEI, PMI, FCPIC and rolls. For the PMI table, the superscript number "2" following the heading *Priority Mail International* is struck through, indicating that the Postal Service intends to delete Note 2 to the table. However, the text of Note 2 is not struck through. The Postal Service should clarify whether it intends to delete Note 2 by striking through the text of the note, or whether it intends to retain Note 2, which would require that the strike through now showing on the superscript "2" be removed.

⁷ Section 2510.7.1(d) of the draft Mail Classification Schedule, posted April 1, 2013, and updated through September 30, 2013.

The Postal Service's intent with respect to Note 2 raises a question as to whether its substance of should be retained for PMI, given the minimum size limitations for GXG, PMEI and FCPIS. Note 2 states that "Items must be large enough to accommodate postage, address and other required elements on the address side." The minimum size limitations presented in the tables for PMEI and FCPIS are virtually identical to the text of Note 2.⁸ By contrast, the minimum length and height limitation presented in the table for PMI is stated in inches. As a result, if the Postal Service intends to delete the text of Note 2, PMI would be the only service offering for which the Postal Service does not advise customers of this minimum size requirement. The Postal Service should clarify whether it wishes to retain the text of Note 2 within the table for PMI in the same manner as similar text is included in the tables for PMEI, FCPIS and GXG.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

James F. Callow
Public Representative

901 New York Ave. NW
Washington, DC 20268-0001
202-789-6839
callowjf@prc.gov

⁸ The minimum size limitation presented in the table for GXG is similar in intent to the substance of Note 2.